

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 586 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE N.J.PANDYA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

STATE OF GUJARAT

Versus

HARIJAN MOTIBHAI KARSANBHAI

Appearance:

Mr. K.P. Raval, A.P.P. for appellant.

MR BN RAVAL for Respondent No. 1, 2

CORAM : MR.JUSTICE N.J.PANDYA

Date of decision: 24/09/97

ORAL JUDGEMENT

The accused/respondents were facing charge for the offences under S. 323, 324, 504, 114 and 427 all of Indian Penal Code. The incident said to have been happened on 28.7.1984 at about 7.30 A.M. in village Varatadi, Taluka Wadhwan, District Surendranagar. The complainant was sitting at the shop of one Raviram when both the accused came there and told the complainant that

his uncle Mohanbhai Ukabhai should leave the society else they will have to deal with him. This led to verbal dispute finally resulting into scuffle and in that process the complainant received some minor injury and lost Rs.125/- which fell out of his shirt pocket that was torn. When he went back and was reporting the incident to his uncle, the accused came again armed with sharp cutting instruments and at that time the daughter of Mohanbhai Ukabhai, one Kamuben received injury. Though the blow was aimed at the complainant the complainant was able to avoid the blow by bending on one side and it landed on Kamuben, the said girl, who was standing on the side of the complainant.

Criminal Case No. 512 of 1984 of J.M.F.C., Wadhwan, resulted into acquittal order dated 31.1.1986 and, therefore, the appeal.

As could be seen from the reasoning set out in the judgment as well as from the evidence on record, the complainant has made deliberate attempts to improve upon the early version of the incident. Except for the first part of the incident as to scuffle and losing Rs.125/- all subsequent details have been improved by the complainant. With regard to the first part of the incident also a deliberate attempt was made to bring presence of two eye witnesses whose names were not stated in the complaint, Ex.20. The names of these witnesses are Ravidas and Dinesh. They did not support the prosecution case.

Name of one Mohanbhai Ukabhai is given in complaint, Ex.20, and when this witness is examined he too has not supported the case of the prosecution as per Ex.23. On the contrary, he has given a version which runs counter to the case of prosecution.

As if this is not enough, the girl Kamuben has also tried to exaggerate her injuries and has gone to the extent of saying that she had remained unconscious as many as for four days. The weapons said to be a sharp cutting one turned out to be a blunt one as per medical certificate.

All told, therefore, the final outcome of the case is eminently merited. There is no reason for this court to interfere with the same. The appeal is, therefore, dismissed.

(ers)